



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Atsushi HAYAMI

Serial No. 09/989,395

Filed: November 21, 2001

For: MODULATION SYSTEM

Art Unit: 2819

Examiner: Jeanglaude, Jean Bruner

Atty Docket: 0102/0189

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following is a response to the Office Action dated May 24, 2006 in which pending claims 1-15 were rejected over claims 1-17 of U.S. patent 6,853,320 under obviousness type double patenting rejection.

In a telephone conversation the undersigned had with the examiner on June 22, 2006, the undersigned informed the examiner that the '320 patent is not prior art against the instant application, insofar as the '320 patent has a U.S. filing date of December 7, 2001 whereas the instant application has a U.S. filing date November 21, 2001 and foreign priority dates of January 12, 2001 and March 21, 2001. The undersigned further mentioned to the examiner that the foreign priority dates (January 16, 2001 and January 22, 2001) of the '320 patent could not be used as prior art dates against the instant application. The examiner agreed.

Nonetheless, in order to expedite the prosecution of this case, and the insistence by the examiner that the double patenting rejection is proper, being submitted herewith is a Terminal Disclaimer to obviate the double patenting rejections.